IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.768 OF 2001

IN

CONTEMPT PETITION NO.60 OF 1998

IN

WRIT PETITION NO.97 OF 1998

Khatau Mackanji Spinning & Weaving Company Ltd. And another. ... Appellants

vs.

Girni Kamgar Sangarsh Samiti and others. ... Respondents

Mr.M.Vasudeo with Ms.Jyotsna Kondhalkar i/b. Gagrats, for Appellants.

None for Respondents.

AND

APPEAL NO.743 OF 2001

IN

CONTEMPT PETITION NO.60 OF 1998

IN

WRIT PETITION NO.97 OF 1998

Kailash Prasad And others. ... Appellants

vs.

Girni Kamgar Sangarsh Samiti and others. ... Respondents

Mr.K.B.Ketkar with A.A.Siddiqui i/b. M.V.Kini & Co., for Appellants.

None for Respondents.

CORAM: D. K. DESHMUKH &

J. H. BHATIA, JJ.

DATED: 17th October,2007

P.C.:-

1. Both these appeals are directed against the same order i.e. Order dated 12.6.2001 passed in contempt petition no.60 of 1998. By that order, the contemnor nos.1, 2, 9, 14 and 15 were held guilty of having committed civil contempt of the Court. The contemnor nos.2, 9, 14 and 15 were sentenced to

undergo simple imprisonment for a period of three months and to pay fine of Rs.2,000/- and in default of payment of fine they were to undergo simple imprisonment for a period of one month. Appeal no.743 of 2001 is filed by the original contemnor nos.9, 14 and 15 and the appeal no.768 of 2001 is filed by the original contemnor nos.1 and 2. The learned Counsel appearing for appellants in appeal no.768 of 2001 submits that though it is true that payment pursuant to the order of the Court dated 20.1.1998 was not immediately made because of the pendency of scheme before the B.I.F.R. and due to financial crunch, during the pendency of the appeal after the scheme was sanctioned, payment has been made to the workers and the order of the Court dated 20.1.1998 has been complied with. In the submission of the learned Counsel, therefore, the order holding the appellants in both the appeals guilty of having committed civil contempt of the Court should be set aside. The learned Counsel appearing for appellants in appeal no.743 of 2001 submits that the appellants were BIFR directors. They have also submitted their unconditional apology and therefore, they could not

have been convicted of having committed civil contempt of this Court. He submits that in any case as now the payment has been made, the order directing them to undergo simple imprisonment be set aside. None appears for original petitioners. We accept the statement made by the learned Counsel appearing in appeal no.768 of 2001 that during the pendency of the appeal, the order of the Court dated 20.1.1998 has been fully complied with. Though the order dated 20.1.1998 has been fully complied with as per the statement of the learned Counsel, the fact remains that the order was not complied with even by the date on which the contempt petition was heard and disposed of. Though the appellants in Appeal no.743 of 2001 were directors appointed by B.I.F.R. and though the appellant no.3 in Appeal no.743 of 2001 was appointed after the order dated 20.1.1998 was made as director of the company, it was their duty to see that the order made by the Court is complied with. So far as the apology tendered by them is concerned, it has been dealt with by the learned Single Judge and as the order was not clearly complied with even when the contempt petition was heard and disposed of, in our

opinion, the apology was rightly rejected. However, in our opinion, as now the order appears to have been complied with and payment to the workers has been made, it will not be in the interest of justice to make the appellants to undergo imprisonment. In our opinion, imposing fine on them is enough punishment, considering the law laid down by the Supreme Court in relation to exercise of contempt jurisdiction by the Court. In our opinion, therefore, the following order would meet the ends of justice:-

Both the appeals partly succeed and are allowed. The order impugned in the appeal is modified and only that part of the order by which the appellants who are original contemnor nos.2, 9,14 and 15 are sentenced to undergo imprisonment for a period of three months, is set aside. The order holding them guilty of civil contempt and imposing fine of Rs.2,000/- on them and in default to undergo imprisonment of one more, is maintained. The appellants are granted four weeks time to pay the amount of fine. Both the appeals are disposed of.

(D.K.Deshmukh, J.)

(J.H.Bhatia, J.)